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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,405	01/04/2006	Artur Schworer	3450	4557
7590 06/23/2008				
Walter A Hackler Patent Law Office Suite B 2372 S E Bristol Street Newport Beach, CA 92660-0755		EXAMINER SAFAVI, MICHAEL		
		ART UNIT 3637		PAPER NUMBER
		MAIL DATE 06/23/2008		DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,405

Applicant(s)

SCHWOREN, ARTUR

Examiner

Michael Safavi

Art Unit

3637

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear to have originally disclosed a clamping device assembled so that "...upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane". Otherwise, the specification is not clear as to "...upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20, line 8, should "class" be –claw--? Otherwise, it is not clear as to what is being defined by "determining the displacement of a class".

Claim 20 recites "...upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane". However, it is not clear as to what forms the "claw plane" and the "wedge plane" nor how a "wedge plane" is parallel to a "claw plane". The specification does not appear to show and describe such an arrangement.

Further, claims 11-20 variously recite "turnbuckle devices" when it does not appear that the instant disclosure presents any turnbuckle device. The disclosure does not appear to set forth "a link or sleeve with a swivel at one end and an internal screw thread at the other, or with an internal screw thread at each end, used as a means of uniting or coupling, and of tightening, two parts, as the ends of two rods", *Random House Unabridged Dictionary*. Therefore, it is not clear as to how the "turnbuckle device" serves to operate within the invention of claims 10-19.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by

Sanders 514. Sanders '514 discloses, Fig. 4, a concrete shell system, comprising concrete shell elements 20 and "turnbuckle devices" 138, having two claws 140, 140 and a wedge, (that element extending through the loop of 138), the claws being displaceable toward one another in a clamping direction, the wedge being guided in a clamping device, (loop of 138), along a wedge guiding direction, the shell elements having multiple mounting positions for the turnbuckle devices, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devices are arrayed along a straight line, the guides, (loop of 138), are positioned inclined toward the straight line in order to avoid collision of neighboring wedges as the wedges are advanced. Each of the turnbuckle devices 138 having the spaced apart opposing claws 140, 140 displaceable toward one another in a clamping direction along a claw plane and with the wedge, (that element extending through the loop of 138), disposed in a guide, (loop of 138), for causing displacement of the claws upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane, movement of the wedge determining the displacement of a claw.

Claim Rejections - 35 USC § 102/103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Spera '360.

Spera '360 discloses, Figs. 27-30, a concrete shell system, comprising concrete shell elements 1, 2 and "turnbuckle devices" 84, having two claws 86 and a wedge 91, the claws being displaceable toward one another in a clamping direction, the wedge being guided in a clamping device 93 along a wedge guiding direction, the shell elements having multiple mounting positions for the turnbuckle devices, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devices are arrayed along a straight line, the guides 93 are positioned inclined toward the straight line in order to avoid collision of neighboring wedges as the wedges are advanced. Each of the turnbuckle devices 84 having the spaced apart opposing claws 86 displaceable toward one another in a clamping direction along a claw plane and with the wedge 91 disposed in a guide 93 for causing displacement of the claws upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane, movement of the wedge determining the displacement of a claw.

Examiner believes that Spera '360 has "multiple mounting positions for receiving the turnbuckle devices, the mounting positions being spaced apart from one another and aligned on a straight line". However, to have provided the concrete form of Spera

'360 with any number of a plurality of "turnbuckle devices" along a pair of adjacent forms 1, 2, thus accounting for any given height of form that may be utilized at the time, would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claims 11-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mosher '334.

Mosher '334 discloses, Fig. 4, a concrete shell system, comprising concrete shell elements 2 and "turnbuckle devices" 9/11, having two claws 5' and a wedge 11, the claws being displaceable toward one another in a clamping direction, the wedge being guided in a clamping device, (seen at end of 11), along a wedge guiding direction, the shell elements having multiple mounting positions for the turnbuckle devices, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devices are arrayed along a straight line, the guides, (not shown in Fig. 4), are positioned inclined toward the straight line in order to avoid collision of neighboring wedges as the wedges are advanced. Each of the turnbuckle devices 9/11 having the spaced apart opposing claws 5' displaceable toward one another in a clamping direction along a claw plane and with the wedge 11 disposed in a guide, (not shown in Fig. 4), for causing displacement of the claws upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane, movement of the wedge determining the displacement of a claw.

Examiner believes that Mosher '334 has "the shell elements having multiple mounting positions for the turnbuckle devices, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devices are arrayed along a straight line". However, to have provided the concrete form of Mosher '334 with any number of a plurality of "turnbuckle devices" along a pair of adjacent forms, thus accounting for any given height of form that may be utilized at the time, would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claims 11-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shahar '677.

Shahar '677 discloses, Figs. 7-9, a concrete shell system, comprising concrete shell elements 'b' and "turnbuckle devices", having two claws 50, 60 and a wedge 9, the claws being displaceable toward one another in a clamping direction, the wedge being disposed in a guide, (portion of 7/70 to which wedge 9 is mounted), to allow movement of the wedge along a wedge guiding direction, the shell elements having multiple mounting positions for the turnbuckle devices, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devices are arrayed along a straight line, the guides, (portion of 7/70 to which wedge 9 is mounted), are positioned inclined toward the straight line in order to avoid collision of neighboring wedges as the wedges are advanced. Each of the turnbuckle devices having the spaced apart opposing claws 50, 60 displaceable toward one another in a clamping direction along a claw plane and with the wedge 9 disposed in a guide, (portion of 7/70

to which wedge 9 is mounted), for causing displacement of the claws upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane, movement of the wedge determining the displacement of a claw.

Examiner believes that Shahar '677 has "the shell elements having multiple mounting positions for the turnbuckle devises, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devises are arrayed along a straight line". However, to have provided the concrete form of Shahar '677 with any number of a plurality of "turnbuckle devices" along a pair of adjacent forms 'b', thus accounting for any given height of form that may be utilized at the time, would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claim Rejections - 35 USC § 103

Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over French reference 2 738 859.

French '859 discloses, Figs. 1 and 2, a concrete shell system, comprising concrete shell elements 5 and "turnbuckle devices" 1, having two claws 15, 17 and a wedge 4, the claws being displaceable toward one another in a clamping direction, the wedge being guided in a clamping device 42 along a wedge guiding direction, the shell elements having multiple mounting positions for the turnbuckle devises, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devises are arrayed along a straight line, the wedges, (thus guides), are

positioned inclined toward the straight line in order to avoid collision of neighboring wedges as the wedges are advanced. Each of the turnbuckle devices 9/11 having the spaced apart opposing claws 5' displaceable toward one another in a clamping direction along a claw plane and with the wedge 11 disposed in a guide, (nut shown in Fig. 4), for causing displacement of the claws upon movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane, movement of the wedge determining the displacement of a claw.

French '859 may not specifically show "the shell elements having multiple mounting positions for the turnbuckle devices, the mounting positions being spaced apart at an interval from one another in a direction, the turnbuckle devices are arrayed along a straight line". However, to have provided the concrete form of French '859 with any number of a plurality of "turnbuckle devices" along a pair of adjacent form frames 6, thus accounting for any given height of form that may be utilized at the time, would have been obvious to one having ordinary skill in the art at the time the invention was made.

Response to Arguments

Applicant's arguments filed March 11, 2008 have been fully considered but they are not persuasive. Applicant's remarks within the sixth paragraph on page seven of the response have been noted. However, the passage alluded to by Applicant does not appear to present a turnbuckle as is recognized in the arts.

With regard to Applicant's arguments against Spera, the guides 94 of Spera are inclined with respect to a straight line of the "mounting positions".

With regard to Applicant's arguments against Mosher, Mosher does disclose "movement of the wedge within the guide in a guiding direction along a wedge plane parallel to the claw plane".

As for Applicant's arguments against French reference '259, the wedge of French '259 does move in a plane parallel to the claw plane" particularly, when considering the instant disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
June 16, 2008